

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
- WICHITA FALLS DIVISION -**

CORNELIUS CAMPBELL BURGESS,

Plaintiff,

v.

**FEDERAL DEPOSIT INSURANCE
CORPORATION, et al.,**

Defendants.

CIVIL NO. 7:22-cv-00100-O

The Honorable Reed O'Connor
United States District Judge

DEFENDANTS' CONSENT MOTION TO STAY CERTAIN PROCEEDINGS

Defendants Federal Deposit Insurance Corporation ("FDIC"), Martin J. Gruenberg, Michael J. Hsu, Rohit Chopra, and Jennifer Whang, respectfully move the Court to stay the proceedings in this case with the exception of a motion for reconsideration that plaintiff intends to file, as described more fully below. In support of their motion, defendants now state as follows:

1. Defendants filed a notice of appeal on December 2, 2022, appealing from the Court's rulings entering a preliminary injunction against them. (Dkt. 50).

2. Absent a stay, proceedings in this Court will continue apace while the appeal is pending before the Fifth Circuit. Among other deadlines, defendants will be required to respond to the Complaint by filing an answer or motion to dismiss, the parties may be required to conduct a discovery planning conference, and they may be required to participate in discovery. Defendants respectfully submit that these activities should be held in abeyance during the pendency of the appeal.

3. Plaintiff, through counsel, has articulated his position on this motion as follows:

“Plaintiff Cornelius Campbell Burgess does not oppose Defendants’ request for a stay of their deadline to file a motion to dismiss or to conduct discovery, pending disposition of their Fifth Circuit appeal. That said, Burgess intends to file a motion for reconsideration of the District Court’s Order holding that he is not entitled to a preliminary injunction as to Counts 1 and 2 of his Complaint (see ECF No. 31 at 17-19, 24). Burgess will file that motion in the immediate future. Burgess opposes any procedure through which litigation on his forthcoming reconsideration motion, or disposition of the same, is stayed or otherwise delayed. With respect to all proceedings in this case **other than** litigation of his forthcoming reconsideration motion, Burgess does not oppose the Defendants’ requested stay.”

4. Accordingly, the parties are in agreement that proceedings in this case, other than those related to plaintiff’s forthcoming motion for reconsideration, should be stayed pending the disposition of defendants’ appeal to the Fifth Circuit.

WHEREFORE, defendants request that their motion be granted and that proceedings in this case—other than proceedings related to plaintiff’s forthcoming motion for reconsideration—be stayed pending disposition of defendants’ appeal.

Respectfully submitted,

FEDERAL DEPOSIT INSURANCE CORPORATION
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Counsel for Defendants

DATED: December 2, 2022

CERTIFICATE OF CONFERENCE

I HEREBY CERTIFY that on December 2, 2022, in accordance with Local Civil Rule 7.1, I conferred with plaintiff's attorneys, Manuel G. Berrelez and James Dawson, to discuss this motion. Plaintiff's counsel provided the following statement:

"Plaintiff Cornelius Campbell Burgess does not oppose Defendants' request for a stay of their deadline to file a motion to dismiss or to conduct discovery, pending disposition of their Fifth Circuit appeal. That said, Burgess intends to file a motion for reconsideration of the District Court's Order holding that he is not entitled to a preliminary injunction as to Counts 1 and 2 of his Complaint (see ECF No. 31 at 17-19, 24). Burgess will file that motion in the immediate future. Burgess opposes any procedure through which litigation on his forthcoming reconsideration motion, or disposition of the same, is stayed or otherwise delayed. With respect to all proceedings in this case **other than** litigation of his forthcoming reconsideration motion, Burgess does not oppose the Defendants' requested stay."

/s/ Andrew A. Nicely
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on December 2, 2022, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all counsel and parties of record registered to receive such notices.

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